IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRD DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.10238 of 2004

Between:

1 Kondapaka Bixapathi, S/o. Late Mallaiah, Hindu, aged 52 years,
Occ: Agriculture, R/o. 10-2 Nagaram, Ranga Reddy District.
2 Kondapaka Ashok, S/o. Late Narsimha, Hindu, aged 40 years,
Occ: Agriculture, R/o. 10-2 Nagaram, Ranga Reddy District.
3 Kondapaka Subash, S/o. Late Kistaiah, Hindu, aged 38 years,
Occ: Agriculture, R/o. 10-2 Nagaram, Ranga Reddy District.

..... PETITIONERS

AND

1 Dasari Yadaiah @ Yadi Reddy, S/o. Late Ramaiah @ Rami Reddy,

Hindu, R/O. Nagaram Village, Keesara Mandal.
2 Dasari Sathi Reddy, S/o. Dasari Yadaiah @ Yadi Reddy, Hindu,
R/O. Nagaram Village, Keesara Mandal.
3 Dasari Srinivas Reddy, S/o. Dasari Yadaiah @ Yadi Reddy, Hindu,
R/O. Nagaram Village, Keesara Mandal.
4 The District Collector, Ranga Reddy District, Hyderabad.
5 The Mandal Revenue Officer, Keesara Mandal, RR District.
6 The Station House Officer, P.S.: Keesara, Keesara, RR District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or direction one or more in the nature of Writ of Mandamus directing the Respondents not to interfere with the peaceful possession and enjoyment of the lands admeasuring 1acre 23 guntas in survey No. 586/4, 1 acre 13 guntas in survey No. 586/5 and 1 acre 14 guntas in Survey No. 586/6 situated at Nagaram Village, Keesara Mandal, RR District assigned to the Petitioners late fathers by the Government of Andhra Pradesh.

Counsel for the Petitioner: MR.D.MADHAVA RAO

Counsel for the Respondent Nos.1 to 3: MR.A.RAVINDER REDDY

Counsel for the Respondent Nos.4 to 6: GP FOR REVENUE (ASSIGNMENT)

The Court made the following:

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.10238 OF 2004

ORDER:

The predecessors of the petitioners were assigned lands in S.Nos.586/4, 586/5, 586/6 of Nagaram Village, Keesara Mandal, Ranga Reddy District. It is alleged that the original assignees transferred the assigned lands in favour of respondents 1 to 3, the particulars of which are not given by the petitioners. Be that as it is, on a complaint given by the petitioners, it appears, the Mandal Revenue Officer issued a notice to respondents 1 to 3 and after conducting enquiry came to the conclusion that the land in S.No.586 is Government land. Thereafter, the land was resumed and allegedly delivered to petitioners on 5.2.1998. It is alleged in this Writ Petition that respondents 1 to 3 are trying to dispossess the petitioners with the support of respondents 4 to 6 as they are very influential persons. Apprehending that respondents 5 and 6 may coerce the petitioners to deliver possession, they filed the Writ Petition. They prayed for a Writ of Mandamus directing the respondents not to interfere with their peaceful possession and enjoyment of the lands.

In the counter affidavit filed by respondents 1 and 3, it is stated that they are also landless poor persons, who purchased the property and are in possession of the same since purchase. It is further contended that under Section 3(5) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (hereafter called, the Act) respondents 1 to 3 are entitled to seek regularization of the alienation and that they are along in possession of the land. All other allegations made by the petitioners are denied.

I have heard the learned counsel for the petitioners and the learned counsel for respondents 1 to 3.

A perusal of the affidavit accompanying the Writ Petition would show that the main grievance of the petitioners is against alleged high-handed action of respondents 1 to 3, who are threatening to dispossess the petitioners. The dispute therefore does

not strictly fall within the public law realm. Indeed, the entire affidavit reads like plaint in an injunction suit and therefore petitioners have to seek redressal elsewhere. However, it is brought to the notice of this Court that the respondents 1 to 3 have already filed a suit being O.S.No.164 of 2001 on the file of the Court of Judicial Magistrate of First Class-cum-Junior Civil Judge, Medchal and obtained decree against petitioners. This decree also supports the view taken by this Court. Further, it is brought to my notice that the petitioners have already filed an application to set aside *ex parte* decree and therefore nothing prevents the petitioners to move the Civil Court in that regard. These things would show that the petitioners have deliberately suppressed the facts from this Court and therefore, they are not entitled for any relief under Article 226 of the Constitution of India.

The Writ Petition, for the above reasons, is dismissed. No costs.

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(V.V.S.RAO, J)

3.11.2004

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To

1 The District Collector, Ranga Reddy District, Hyderabad.
2 The Mandal Revenue Officer, Keesara Mandal, RR District.
3 The Station House Officer, P.S.: Keesara, Keesara, RR District.

4 Two CCs to the Government Pleader for Revenue (Assignment),

High Court Buildings, Hyderabad (O.U.T)

5 Two C.D. Copies.